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BCS

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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IP ADMINISTRATION
LEGAL DEPARTMENT 20BN
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LM01/0814

EXAMINER	
LUU, S	
ART UNIT	PAPER NUMBER
2773	12

DATE MAILED:

08/14/00

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Attachment — notice of defective appeal brief

BCS

Defective Appeal Brief

1. This communication is responsive to the Appeal Brief, filed on 5/30/2000.
2. The appeal brief filed on 5/30/2000 is defective because the grouping of claims is invalid.

In the Appeal Brief, the Applicant submitted two groupings of claims, both with respect to the rejections over Wilson in view of Kurtenbach. Group 1 includes claims 3, 6 and 9 which stand or fall as a group, and group 2 includes claims 4-9 which stand or fall as a second group.

The groupings as presented is deemed invalid by the examiner because the claims 6 and 9 included in group 1 are also included in group 2. A contraction would arise if, for example, claim 6 in group 1 stands while claim 4 in group 2 falls, which would necessitate claim 6 of group 2 to fall also. Thus, it is not possible to have the same claim to stand in one group and fall in another.

3. To avoid dismissal of the appeal, appellant must ratify the appeal brief within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS from the mailing of this communication, whichever is longer; (2) within the time period for reply to the action from which appeal has been taken; or (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

Art Unit: 2773

Responses

Responses to this action should be mailed to:

**Commissioner of Patents and Trademarks
Washington, D.C. 20231.**

If applicant desires to fax a response, (703) 308-9051(52) may be used for formal communications and informal or draft communications.

Please label "PROPOSED" or "DRAFT" for informal facsimile communications. For after final responses, please label "AFTER FINAL" or "EXPEDITED PROCEDURE" on the document.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).


Inquires

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy D. Luu whose telephone number is (703) 305-0409. The examiner can normally be reached on **Monday - Thursday from 6:30 am to 4:00 pm (EST)**. The examiner can also be reached on alternate **Friday**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Matt Kim**, can be reached on (703) 305-3821.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.

Sy D. Luu
Patent Examiner
August 10, 2000


**RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2773**

ATTACHMENT TO AND MODIFICATION OF
NOTICE OF ALLOWABILITY (PTO-37)
(November, 2000)

NO EXTENSIONS OF TIME ARE PERMITTED TO FILE CORRECTED OR FORMAL DRAWINGS, OR A SUBSTITUTE OATH OR DECLARATION, notwithstanding any indication to the contrary in the attached Notice of Allowability (PTO-37).

If the following language appears on the attached Notice of Allowability, the portion lined through below is of no force and effect and is to be ignored¹:

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS FROM THE "DATE MAILED"** of this Office action. Failure to comply will result in ABANDONMENT of this application. ~~Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).~~

Similar language appearing in any attachments to the Notice of Allowability, such as in an Examiner's Amendment/Comment or in a Notice of Draftperson's Patent Drawing Review, PTO-948, is also to be ignored.

¹ The language which is crossed out is contrary to amended 37 CFR 1.85(c) and 1.136. See "Changes to Implement the Patent Business Goals", 65 Fed. Reg. 54603, 54629, 54641, 54670, 54674 (September 8, 2000), 1238 Off. Gaz. Pat. Office 77, 99, 110, 135, 139 (September 19, 2000).